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12 UNITED STATES MAGISTRATE COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA, ) No. 3 05 70678 (BZ)  
16 Plaintiff, ) [PROPOSED] ORDER AND  
17 v. ) STIPULATION FOR CONTINUANCE  
18 ROSALYN TILLERY, ) FROM OCTOBER 3, 2005 UNTIL  
19 Defendant. ) NOVEMBER 3, 2005 AND EXCLUDING  
20 ) TIME FROM THE SPEEDY TRIAL ACT  
21 ) CALCULATION (18 U.S.C. §  
22 ) 3161(h)(8)(A)) AND WAIVING TIME  
23 ) LIMITS UNDER RULE 5.1

24 With the agreement of the parties, and with the consent of the defendant, the Court enters  
25 this order continuing this matter and scheduling an arraignment or preliminary hearing date of  
26 November 3, 2005 at 9:30A.M. before the duty magistrate judge, and documenting the  
27 defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1  
28 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from October 3, 2005  
until November 3, 2005. The parties agree, and the Court finds and holds, as follows:

- 24 1. The defendant has been released on a bond.
- 25 2. The parties initially appeared on this matter on September 12, 2005, and the 20-day  
26 deadline for preliminary hearing or arraignment under Rule 5.1 was calculated to be October 2,  
27 2005, which is a Sunday. Because counsel for the Government will be out of the country the  
28 preceding Friday, September 30, 2005, the Court set the preliminary hearing for Monday,

1      October 3, 2005, waived time under Rule 5.1, and excluded time to allow for continuity of  
2      Government counsel pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv).

3            3. The Government has since provided defense counsel with over 600 pages of  
4      discovery, and defense counsel will require adequate time to review this material, discuss it with  
5      his client, and evaluate the possibility of a prompt resolution of this matter. Accordingly, the  
6      parties seek a continuance of 30 days until November 3, 2005.

7            4. Defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §  
8      3161(h)(8)(B)(iv) and to waiving the time limits of Federal Rule of Criminal Procedure 5.1 for  
9      preliminary hearing.

10          4. The Court finds that, taking into the account the public interest in the prompt  
11     disposition of criminal cases, these grounds are good cause for extending the time limits for a  
12     preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,  
13     the Court finds that the ends of justice served by excluding the period from October 3, 2005 until  
14     November 3, 2005 outweigh the best interest of the public and the defendant in a speedy trial. 18  
15     U.S.C. § 3161(h)(8)(A).

16          6. Accordingly, and with the consent of the defendant, the Court (1) continues the  
17     preliminary hearing date until November 3, 2005, at 9:30A.M. before the duty magistrate judge,  
18     and (2) orders that the period from October 3, 2005 to November 3, 2005 be excluded from the

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1 time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from  
2 Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

3 IT IS SO STIPULATED:

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5 DATED: 9/22/05 /s/ \_\_\_\_\_  
6 DAVID COHEN  
Attorney for Defendant

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8 DATED: 9/21/05 /s/  
9 MICHELLE MORGAN-KELLY  
Assistant United States Attorney

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11 IT IS SO ORDERED.

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13 DATED: 9/30/05 \_\_\_\_\_  
14 JOSEPH C. SPERO  
United States Magistrate Judge

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